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BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Special Services Fees and Classifications) Docket No. MC96-3

OFFICE OF THE CONSUMER ADVOCATE MOTION UNDER
39 U.S.C. §3624(c)(2) FOR DAY-FOR-DAY EXTENSIONS IN THE
PROCEDURAL SCHEDULE AND THE TEN-MONTH DECISIONAL DEADLINE
(August 12, 1996)

The Office of the Consumer Advocate (OCA) hereby moves that the Commission issue an order, pursuant to its authority under 39 U.S.C. §3624(c)(2), declaring that the instant proceeding is subject to a day-for-day extension until such time as the Postal Service complies with Commission Orders 1120, June 18, 1996, and 1126, July 19, 1996, by filing versions of the CRA (namely USPS-T-5A-5J) and a conforming USPS-T-1 Exhibit C that are based upon the Commission's established cost attribution methodologies, including the Commission's methodology for attributing city carrier access costs. The need for such a remedy is occasioned by the Statement of the United States Postal Service Concerning Order No. 1126, August 2, 1996, (Postal Service Statement) which announces the Postal Service's decision to defy two unequivocal directives by the Commission to submit a CRA incorporating the

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Commission's methodology for determining the level of attribution of city carrier access costs.

Order No. 1120 plainly declares:

1. The Postal Service is to provide versions of USPS-T-5A-J that comport with Commission cost attribution methodology from R94-1.
2. The Postal Service is to provide a version of witness Lyon's (USPS-T-1) Exhibit C that reflects the Commission cost attribution methodology.

On June 28, 1996, the Postal Service filed a Motion for Reconsideration of Order No. 1120, and Partial Response. Order No. 1126 considered the Postal Service's arguments to be excused from complying with Order No. 1120 and rejected them categorically, finally ordering that: "The Postal Service is directed to provide the cost presentations specified in Order No. 1120 on or before August 5, 1996." Although couched as a respectful declination¹ to follow two explicit directives, in OCA's view, the Postal Service's refusal to comply with lawful Commission orders signals a marked lack of respect for the Commission's role under the Postal Reorganization Act.

In Order No. 1120 at 11, the Commission quotes a passage from *Nat'l Assoc. of Greeting Card Publishers v. U.S.P.S.*, 462 U.S. 810, 833 (1983), defining the Commission's role:

¹ Postal Service Statement at 5.

[A]ll costs that in the judgment of the Rate Commission are the consequence of providing a particular class of service must be borne by that class. The statute requires attribution of any cost for which the source can be identified, but leaves it to the Commissioners, in the first instance, to decide which methods provide reasonable assurance that costs are the result of providing one class of service.

Perforce it is the Commission, not the Postal Service, that makes the final selection of a costing methodology that best promotes the cost-causation principles of the Act. The Postal Service's outright defiance of Commission orders is not only disrespectful, but unlawful.

Subsection 3622(b)(1) of title 39 charges the Commission with recommending fair and equitable rates. As explained in Order No. 1126 at 6-7, the fairness and equity of the proposed rate increases for selected special services in Docket No. MC96-3 can only be evaluated by comparing relative cost coverages among all subclasses and special services. Furthermore, for a comparison to be made between cost coverages established by the Commission in Docket No. R94-1 and those resulting from the proposed rates in Docket No. MC96-3, the same attribution methodology must be used. OCA submits that the common attribution methodology must be the Commission's, not the Postal Service's.

A latent irony is present in the Postal Service's refusal to furnish the tools needed to compare MC96-3 and R94-1 cost coverages. The Postal Service has long favored the policy of setting rates based upon Ramsey pricing techniques. For example, Postal Service witness Schmalensee testified in Docket No. MC95-1 that:

In a world where information is difficult and expensive, one might want to know the region where Ramsey prices lie or the direction of differences between Ramsey prices and alternative prices, and that might be a sufficient and rational ground for decision-making.

Tr. 33/15083. In the same vein, the Postal Service's R94-1 pricing witness, Grady Foster, testified:

Economic value of service, as measured by relative elasticities of demand, can be used in a quantitative way through the application of Ramsey pricing models. Though Ramsey pricing is not used in a formal sense to determine the rates proposed here, the cost coverages for First-Class Mail letters and third-class bulk regular rate mail which result from across-the-board rate increases are more in accord with Ramsey pricing principles than were the cost coverages in recent Commission recommended decisions. The need to move in this direction was a central theme in a 1992 GAO report, entitled "U.S. Postal Service: Pricing Postal Services in a Competitive Environment." Moving price relationships in a direction which focuses on economic value of service places greater emphasis on customer perceptions than had previously been the case.

Docket No. R94-1, USPS-T-11 at 19 (footnote omitted).

The goal of establishing prices in accordance with Ramsey principles, which the Postal Service has long advocated, can only be accomplished if all rates are set simultaneously, in relation to one another.² In order to apply this principle (simultaneous markups) in the instant docket, the Commission must have access to cost coverages for the proposed rates for selected special services in the same format that it has other cost coverages from R94-1. The R94-1 cost coverages are based upon the Commission's costing methodologies, not the Postal Service's. In order to effectuate the Postal Service's own goal, an apples-to-apples comparison of cost coverages for affected special services and all other classes and services must be made.

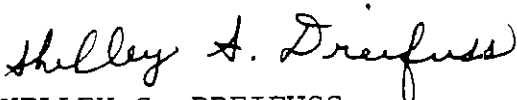
Only once in the decades since postal reorganization has the Commission found sufficient cause to delay a proceeding under section 3624(c)(2) of title 39. In Order No. 280, May 18, 1979, Docket No. MC78-1, the Commission imposed a 151-day extension due to unreasonable delays of the Postal Service in prosecuting its request for reclassification of parcel post. The events giving rise to Order No. 280 were "numerous" and "inconvenient" modifications in the Postal Service's direct case, including the

² Obviously, the Service is not espousing Ramsey pricing in this docket. If it were, this would be a general rate case, with all rates being adjusted. Of course, the OCA has always opposed the Postal Service's approach to demand pricing.

substitution of new testimonies and witnesses. Id. at 12. The Postal Service caused serious delays and disruptions in the procedural schedule by withdrawing portions of its direct case and filing new testimonies to take their place. However, all of these actions were due to unavoidable difficulties with witnesses. The Postal Service's conduct in the instant case is far more egregious. Its defiance of Commission orders is willful and deliberate.

In conclusion, pursuant to 39 U.S.C. §3624(c)(2), OCA moves that all dates in the procedural schedule as well as the ten-month decisional deadline be extended by the number of days between August 5, 1996, and the date on which the Postal Service complies with Orders 1120 and 1126.

Respectfully submitted,


SHELLEY S. DREIFUSS
Attorney

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with section 3.B(3) of the special rules of practice.

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